

114TH CONGRESS  
1ST SESSION

# S. 2430

To permit the recovery of costs incurred by U.S. Customs and Border Protection for preclearance operations activities, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 18, 2015

Ms. CANTWELL (for herself and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To permit the recovery of costs incurred by U.S. Customs and Border Protection for preclearance operations activities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Travel Facilitation and  
5 Safety Act of 2015”.

**6 SEC. 2. RECOVERY OF INITIAL PRECLEARANCE OPERATION**

**7 COSTS.**

8       (a) COST SHARING AGREEMENTS WITH RELEVANT  
9 AIRPORT AUTHORITIES.—The Commissioner of U.S. Cus-

1       toms and Border Protection may enter into a cost sharing  
2       agreement with airport authorities in foreign countries at  
3       which preclearance operations are to be established or  
4       maintained if—

5                 (1) an executive agreement to establish or  
6        maintain such preclearance operations pursuant to  
7        the authorities under section 629 of the Tariff Act  
8        of 1930 (19 U.S.C. 1629) and section 103(a)(7) of  
9        the Immigration and Nationality Act (8 U.S.C.  
10      1103(a)(7)) has been signed, but has not yet entered  
11      into force; and

12                 (2) U.S. Customs and Border Protection has  
13      incurred, or expects to incur, initial preclearance op-  
14      erations costs in order to establish or maintain  
15      preclearance operations under the agreement de-  
16      scribed in paragraph (1).

17                 (b) CONTENTS OF COST SHARING AGREEMENTS.—

18                 (1) IN GENERAL.—Notwithstanding section  
19      13031(e) of the Consolidated Omnibus Budget Rec-  
20      onciliation Act of 1985 (19 U.S.C. 58c(e)) and sec-  
21      tion 286(g) of the Immigration and Nationality Act  
22      (8 U.S.C. 1356(g)), any cost sharing agreement au-  
23      thorized under subsection (a) may provide for the  
24      airport authority's payment to U.S. Customs and

1       Border Protection of its initial preclearance operations costs.

3                     (2) TIMING OF PAYMENTS.—The airport  
4        authority's payment to U.S. Customs and Border  
5       Protection for its initial preclearance operations  
6       costs may be made in advance of the incurrence of  
7       the costs or on a reimbursable basis.

8                     (c) ACCOUNT.—

9                     (1) IN GENERAL.—All amounts collected pursuant  
10      to any cost sharing agreement authorized under  
11      subsection (a)—

12                     (A) shall be credited as offsetting collections to the currently applicable appropriation, account, or fund of U.S. Customs and Border Protection;

16                     (B) shall remain available, until expended, for the purposes for which such appropriation, account, or fund is authorized to be used; and

19                     (C) may be collected and shall be available only to the extent provided in appropriations Acts.

22                     (2) RETURN OF UNUSED FUNDS.—Any advances or reimbursements not used by U.S. Customs and Border Protection may be returned to the relevant airport authority.

1                             (3) RULE OF CONSTRUCTION.—Nothing in this  
2 subsection may be construed to preclude the use of  
3 appropriated funds, from sources other than the  
4 payments collected under this Act, to pay initial  
5 preclearance operation costs.

6                             (d) INITIAL PRECLEARANCE OPERATIONS COSTS DE-  
7 FINED.—

8                             (1) IN GENERAL.—In this section, the term  
9 “initial preclearance operations costs” means the  
10 costs incurred, or expected to be incurred, by U.S.  
11 Customs and Border Protection to establish or  
12 maintain preclearance operations at an airport in a  
13 foreign country, including costs relating to—

14                                 (A) hiring, training, and equipping new of-  
15 ficers of U.S. Customs and Border Protection  
16 who will be stationed at United States domestic  
17 ports of entry or other facilities of U.S. Cus-  
18 toms and Border Protection to backfill such of-  
19 ficers to be stationed at an airport in a foreign  
20 country to conduct preclearance operations; and

21                                 (B) visits to the airport authority con-  
22 ducted by personnel of U.S. Customs and Bor-  
23 der Protection necessary to prepare for the es-  
24 tablishment or maintenance of preclearance op-  
25 erations at such airport, including the com-

1           pensation, travel expenses, and allowances pay-  
2           able to such personnel attributable to such vis-  
3           its.

4           (2) EXCEPTION.—The costs described in para-  
5           graph (1)(A) shall not include the salaries and bene-  
6           fits of new officers of U.S. Customs and Border Pro-  
7           tection once such officers are permanently stationed  
8           at a domestic United States port of entry or other  
9           domestic facility of U.S. Customs and Border Pro-  
10          tection after being hired, trained, and equipped.

11       **SEC. 3. COLLECTION AND DISPOSITION OF FUNDS COL-**  
12               **LECTED FOR IMMIGRATION INSPECTION**  
13               **SERVICES AND PRECLEARANCE ACTIVITIES.**

14       (a) IMMIGRATION AND NATIONALITY ACT.—Section  
15       286(i) of the Immigration and Nationality Act (8 U.S.C.  
16       1356(i)) is amended by striking the last sentence and in-  
17       serting “Reimbursements under this subsection may be  
18       collected in advance of the provision of such immigration  
19       inspection services. Notwithstanding subsection (h)(1)(B),  
20       and only to the extent provided in appropriations Acts,  
21       any amounts collected under this subsection shall be cred-  
22       ited as offsetting collections to the currently applicable ap-  
23       propriation, account, or fund of U.S. Customs and Border  
24       Protection, remain available until expended, and be avail-

1 able for the purposes for which such appropriation, ac-  
2 count, or fund is authorized to be used.”.

3 (b) FARM SECURITY AND RURAL INVESTMENT ACT  
4 OF 2002.—Section 10412(b) of the Farm Security and  
5 Rural Investment Act of 2002 (7 U.S.C. 8311(b)) is  
6 amended to read as follows:

7 “(b) FUNDS COLLECTED FOR PRECLEARANCE.—

8 Funds collected for preclearance activities—

9 “(1) may be collected in advance of the provi-  
10 sion of such activities;

11 “(2) shall be credited as offsetting collections to  
12 the currently applicable appropriation, account, or  
13 fund of U.S. Customs and Border Protection;

14 “(3) shall remain available until expended;

15 “(4) shall be available for the purposes for  
16 which such appropriation, account, or fund is au-  
17 thorized to be used; and

18 “(5) may be collected and shall be available  
19 only to the extent provided in appropriations Acts.”.

20 **SEC. 4. EXPANSION OF PRECLEARANCE AT FOREIGN AIR-**  
21 **POR**TS.

22 (a) FINDINGS.—Congress makes the following find-  
23 ings:

24 (1) Preclearance operations provide theulti-  
25 mate ability for the United States to address poten-

1       tial threats at the earliest possible moment and prior  
2       to departure, through the forward deployment of of-  
3       ficers of U.S. Customs and Border Protection to last  
4       points of departure in a foreign country.

5               (2) With inspections and examination oper-  
6       ations of U.S. Customs and Border Protection lo-  
7       cated in a foreign country, preclearance provides the  
8       capability to interdict, address, and work with host-  
9       country law enforcement in furtherance of both avia-  
10      tion security and border security in the United  
11      States.

12               (3) Under current preclearance operations, offi-  
13       cers of the U.S. Customs and Border Protection col-  
14       lect biometrics in the same way that is currently  
15       done upon arrival in the United States, in accord-  
16       ance with current regulation, and as part of the rou-  
17       tine entry process from certain aliens who are not  
18       citizens of the United States prior to boarding  
19       flights destined to the United States.

20               (4) Preclearance operations provide the best  
21       means for existing and future biometric security ca-  
22       pabilities beyond the United States. Support for  
23       preclearance expansion will greatly increase border  
24       and aviation security in the United States and for-  
25       eign countries.

1       (b) SENSE OF CONGRESS.—It is the sense of Con-  
2 gress that each country designated as a visa waiver pro-  
3 gram country under section 217 of the Immigration and  
4 Nationality Act (8 U.S.C. 1187) should seek to participate  
5 in the preclearance program with the United States, to  
6 jointly address security concerns through additional ex-  
7 change of information and to improve joint ability to se-  
8 cure the that visa waiver program while maintaining the  
9 original intent of the program.

10 **SEC. 5. BIOMETRIC DEMONSTRATION PROGRAMS AT**  
11 **PRECLEARANCE LOCATIONS.**

12       (a) AUTHORITY.—The Secretary of Homeland Secu-  
13 rity is authorized to select preclearance locations, includ-  
14 ing preclearance expansion locations, and enter into an  
15 agreement with a foreign government or airport to conduct  
16 a collaborative biometric demonstration program at such  
17 a location to test emerging biometric technologies. The  
18 scope of the demonstration program may encompass trav-  
19 elers other than those utilizing preclearance at such a loca-  
20 tion, provided that such program includes means for infor-  
21 mation sharing with U.S. Customs and Border Protection  
22 operations.

23       (b) INTERNATIONAL COOPERATION AND COORDINA-  
24 TION.—Section 233(a) of the Security and Accountability

1 For Every Port Act of 2006 (6 U.S.C. 983(a)) is amend-  
2 ed—

3                     (1) in paragraph (1), by striking the period at  
4                     the end and inserting “, and to establish and main-  
5                     tain, in partnership with foreign governments, demon-  
6                     stration programs to test emerging biometric tech-  
7                     nologies at foreign airports at which the Secretary  
8                     has established preclearance operations.”; and

9                     (2) in paragraph (2)—

10                         (A) in subparagraph (A), by striking  
11                     “and” at the end;

12                         (B) in subparagraph (B), by striking the  
13                     period at the end and inserting a semicolon and  
14                     “and”; and

15                         (C) by adding the following:

16                         “(C) lease, loan, provide, or otherwise as-  
17                     sist in the deployment of biometric technologies  
18                     at foreign airports at which the Secretary has  
19                     established preclearance operations under such  
20                     terms and conditions as the Secretary pre-  
21                     scribes, including nonreimbursable loans or the  
22                     transfer of ownership of such technologies, and  
23                     provide the necessary training and technical as-  
24                     sistance related to the biometric demonstration  
25                     programs referred to in paragraph (1).”.

1   **SEC. 6. VISA WAIVER PROGRAM REQUIREMENTS.**

2       (a) INFORMATION SHARING PROCESS.—The Director  
3   of National Intelligence shall—

4           (1) develop a process to share information de-  
5   rived from the Terrorist Identities Datamart Envi-  
6   ronment (TIDE) database and the Terrorist Screen-  
7   ing Database (TSDB), including biometric and bio-  
8   graphic information, with countries participating in  
9   the visa waiver program established under section  
10   217(a) of the Immigration and Nationality Act (8  
11   U.S.C. 1187(a)); and

12           (2) not later than 1 year after the date of the  
13   enactment of this Act, certify to Congress that such  
14   process may be utilized by such countries.

15       (b) CONTINUING QUALIFICATION AND DESIGNATION  
16   TERMINATIONS.—Subsection (c) of section 217 of the Im-  
17   migration and Nationality Act (8 U.S.C. 1187) is amend-  
18   ed—

19           (1) in paragraph (1), by striking “Attorney  
20   General,” and inserting “Secretary of Homeland Se-  
21   curity;”; and

22           (2) in paragraph (2)—

23              (A) in subparagraph (C)(iii)—

24                  (i) by striking “and the Committee on  
25   International Relations” and inserting “,

1                   the Committee on Foreign Affairs, and the  
2                   Committee on Homeland Security”; and

3                   (ii) by striking “and the Committee  
4                   on Foreign Relations” and inserting “, the  
5                   Committee on Foreign Relations, and the  
6                   Committee on Homeland Security and  
7                   Governmental Affairs”; and

8                   (B) by adding at the end the following:

9                   “(G) BORDER SECURITY.—The govern-  
10                  ment of the country utilizes the process devel-  
11                  oped by the Director of National Intelligence  
12                  under section 6(a) of the Travel Facilitation  
13                  and Safety Act of 2015 to utilize information  
14                  derived from the Terrorist Identities Datamart  
15                  Environment (TIDE) database and the Ter-  
16                  rorist Screening Database (TSDB) for border  
17                  security and immigration purposes, including  
18                  the screening of aliens seeking asylum or ref-  
19                  ugee status in that country.”.

